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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,655	03/01/2004	Kurt Dobbins	ENB-01SCPCN2(1027)	2712
959 7590 11/25/2008 LAHIVE & COCKFIELD, LLP FLOOR 30, SUITE 3000 ONE POST OFFICE SQUARE BOSTON, MA 02109			EXAMINER NGUYEN, TOAN D	
			ART UNIT 2416	PAPER NUMBER
			MAIL DATE 11/25/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/791,655	DOBBINS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	TOAN D. NGUYEN	2416	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 53-67 is/are pending in the application.
- 4a) Of the above claim(s) 64-66 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 53-63 and 67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/14/05</u> .   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group I (Claims 53-63 and 67) in the reply filed on 08/12/08 is acknowledged.

***Claim Objections***

2. Claim 58 is objected to because of the following informalities:

Claim 58, line 1, it is suggested to change "the said" to --- said ---.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 53-58, 60-63, and 67 are rejected under 35 U.S.C. 102(b) as being anticipated by Ross (US 5,394,402).

For claim 53, Ross discloses hub for segment virtual local area network with share media access, comprising the steps of:

creating a local data structure in a network device (figure 1, reference 10) with an attached end system (figure 1, references 20, 22, 24, 26, 28, 30, 32, 34, and 36)(col. 5, lines 14-18, and col. 5, lines 62-66); and

populating said local data structure with alias information (col. 5, line 67 to col. 6, line 3) about a locally attached end system identifier and a source port identifier of said network device (figure 2, reference 62, col. 5, lines 62-66).

For claim 54, Ross discloses wherein said step of populating said local data structure is performed in at least one of an implicit manner and an explicit manner (figure 2, references 46, 48, and 50, col. 5, lines 51-53).

For claim 55, Ross discloses wherein said end system identifier includes a MAC address of the attached end system (figure 1, references 20, 22, 24, 26, 28, 30, 32, 34, and 36)(col. 5, lines 17-18).

For claim 56, Ross discloses wherein said data structure can further hold additional information identifying at least one of an owner switch (figure 3, references 10, 110, and 210, col. 6, line 61), an alias type, a VLAN policy, and a VLAN ID (col. 5, line 67 to col. 6, line 21).

For claim 57, Ross discloses hub for segment virtual local area network with share media access, comprising the steps of:

creating a data structure in a network device (figure 1, reference 10) with an attached end system (figure 1, references 20, 22, 24, 26, 28, 30, 32, 34, and 36)(col. 5, lines 14-18, and col. 5, lines 62-66);

populating said data structure with alias information (col. 5, line 67 to col. 6, line 3) and an attached end system identifier (figure 2, reference 62, col. 5, lines 62-66);  
and

reading data from two or more data structures in a network (figure 3, references 10, 110, and 210, col. 8, lines 35-42).

For claim 58, Ross discloses wherein the said virtual data structure is used to establish an association of a MAC address to alias information for a system in the network (col. 5, line 67 to col. 6, line 2).

For claim 60, Ross discloses further comprising the step of locating a device in the network (col. 5, lines 1-6).

For claim 61, Ross discloses wherein the step of locating includes a step of constructing a query for said virtual data structure to retrieve information to locate the device (figure 2, col. 5, lines 14-18).

For claim 62, Ross discloses wherein a location of the device comprises an identifier of a network device having said device locally attached (col. 5, lines 40-43).

For claim 63, Ross discloses wherein a location of the device comprises a network device and a port identifier of the network device having said device locally attached (col. 5, lines 62-66).

For claim 67, Ross discloses hub for segment virtual local area network with share media access, comprising the steps of:

a port (figure 1, reference 12, col. 3, lines 10-11) to receive network traffic (col. 5, lines 51-52); and

a data processing mechanism (figure 2, reference 40) configured to create a local data structure that includes at least alias information (col. 5, line 67 to col. 6, line 3)

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about a locally attached end system identifier and a source port identifier of said network device (figure 2, reference 62, col. 5, lines 62-66).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ross (US 5,394,402) in view of Oliver et al. (US 5,491,694).

For claim 59, Ross does not expressly disclose wherein said virtual data structure is used to establish an association of a MAC address to an IP address for a system in the network. In an analogous art, Oliver et al. disclose wherein said virtual data structure is used to establish an association of a MAC address to an IP address for a system in the network (col. 16, lines 54-56).

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One skilled in the art would have recognized the wherein said virtual data structure is used to establish an association of a MAC address to an IP address for a system in the network, and would have applied Oliver et al.'s SFPS switch in Ross's VLAN. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Oliver et al.'s system and method for allocating a shared resource among competing devices in Ross's hub for segment virtual local area network with share media access with the motivation being to process a data packet of a switch (col. 16, lines 23-24).

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TOAN D. NGUYEN whose telephone number is (571)272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on 571-272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. D. N./  
Examiner, Art Unit 2416

//Melvin Marcelo//  
Primary Examiner, Art Unit 2416  
November 21, 2008